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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,638	03/26/2007	Ruediger Eiermann	2003P01764WOUS	3614
46726 7590 09/09/2010 BSH HOME APPLIANCES CORPORATION INTELLECTUAL PROPERTY DEPARTMENT 100 BOSCH BOULEVARD NEW BERN, NC 28562			EXAMINER BLAN, NICOLE R	
			ART UNIT 1712	PAPER NUMBER
			NOTIFICATION DATE 09/09/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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1. The amendment to claim 42 in the response filed on August 19, 2010 would be entered upon filing of a proper appeal brief and would overcome the claim objections. The remaining claims would remain rejected under 35 U.S.C. 103(a) for the reasons of record.

Response to Arguments

2. Applicant's arguments filed August 19, 2010 have been fully considered but they are not persuasive.

In response to applicants' arguments regarding Centis and Tabasso, the Examiner does not find them persuasive. Applicants' state that Centis teaches away from the present invention and that one of skill in the art would not look to Tabasso for a flexible reservoir for use in the Centis dishwasher. Centis teaches a dishwasher that utilizes a storage reservoir, but it does not teach that the storage reservoir is a flexible bag. Tabasso teaches a dishwasher that utilizes a flexible bag as a storage reservoir because using bag-like reservoirs takes up minimum space within the dishwasher and that the flexible reservoirs are adapted to recover, store and return to further use the liquor used during various phases of a washing process [see abstract]. Thus, Tabasso does in fact teach that the bags are for use as part of the water supply system. Because both Centis and Tabasso teach dishwashers that contain a storage reservoir, it would have been obvious to one of ordinary skill in the art to substitute one container for the other to achieve the predictable result of holding liquid.

In response to applicants' argument that Tabasso bags are for use in a parallel manner, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must

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be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Applicants' also draw the examiners attention to two foreign patents cited in Centis. The examiner would like to point out that these references are located in the background section and are not mentioned in the Centis reference to disclose the dishwasher structure as the two foreign patents are directed to washing machines. Even though the two foreign patents state that a parallel structure is not preferred, this does not take away from the fact that it is still known to use storage reservoirs within dishwashers. Disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or non-preferred embodiments. *In re Susi*, 440 F.2d 442, 169 USPQ 423 (CCPA 1971). See MPEP 2123.

Furthermore, claims directed to apparatus must be distinguished from the prior art in terms of structure rather than function. *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). "[A]pparatus claims cover what a device is, not what a device does." *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990). (emphasis in original)

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Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NICOLE BLAN whose telephone number is (571)270-1838. The examiner can normally be reached on Monday - Thursday 8-5 and alternating Fridays 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Cleveland can be reached on 571-272-1418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nicole Blan/
Examiner, Art Unit 1712

/Michael Cleveland/
Supervisory Patent Examiner, Art Unit 1712